

DECISION MEMORANDUM
Pinal County; Right-of-grant
DOI-BLM-AZ-G020-2015-0014-CX
AZA-36750

U.S. Department of the Interior
Bureau of Land Management
Tucson Field Office

Project Description

On September 16, 2014 Viel Gluck Limited Partnership & Ben Fatto Limited Partnership filed an application for a grant for legal access to their property in T. 5 S., R. 11 E., Section 14, Gila and Salt River Meridian.

It is an existing road right-of-way that has been assigned to Thomas Van Bebber and Cynthia Bell. The Partnerships would like their own access. The road is 25' wide and 4627' in length.

The grant is for legal access across the following public lands:

T.5 S., R. 11 E., Gila and Salt River Meridian
Sec. 15, W $\frac{1}{2}$;
22, NE $\frac{1}{4}$ NW $\frac{1}{4}$.

The proposed action qualifies as a CX under Departmental Manual 516, 11.9, Appendix 4 E.16 that reads, "Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes."

When the grant was originally issued in 1997, wildlife, T&E species, and cultural surveys were completed and no problems were found. An active & authorized record search was done. There are no active mining claims in the area. The Box O grazing lease isn't a conflict. The right-of-way holder has been contacted and does not have any issues with the BLM issuing a new grant to the Partnerships.

The term of the grant will be 30 years and will be issued with the right to apply for renewal.

Special stipulations regarding the biological resources and maintenance of the road will be part of this grant.

Approval and Decision

Based on a review of the project described in the attached Categorical Exclusion documentation and field office staff recommendations, I have determined that the project is in conformance with the The Phoenix Resource Management Plan (RMP), Page 14: "to issue land use authorization on a case by case basis" (approved September 29, 1989) and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed with the attached stipulations.

Administrative Review or Appeal Opportunities

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1, which can be found in the

Tucson Field Office. If an appeal is taken, your notice of appeal must be filed at Tucson Field Office, 3201 E Universal Way, Tucson AZ 85756 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Office of the Solicitor (Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Court House #404, 401 West Washington Street SPC44, Phoenix, AZ 85003-2151) (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

Standards for Obtaining a Stay

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

/s/
Bruce Sillitoe, Tucson Field Office Manager

4/30/15
Date

Attachment: G020-2015-0014-CX, Stipulations